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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,502	09/29/2003	Masashi Hamanaka	60188-658	8488
7590	01/27/2006		EXAMINER	
Jack Q. Lever, Jr. McDERMOTT, WILL & EMERY 600 Thirteenth Street, N.W. Washington, DC 20005-3096			RACHUBA, MAURINA T	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/671,502	<b>Applicant(s)</b> HAMANAKA ET AL.	
	<b>Examiner</b> M Rachuba	<b>Art Unit</b> 3723	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7,9,10,17-19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7,9,10,17-19 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/30/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of species 2 in the reply filed on 11 May 2005 is acknowledged.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 7, 9, 10, 17, 18, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neto, US005634497A in view of Salugsugan, US005486265A , Adams et al, US005755614A, or Hayden, US006015499A and further in view of JP10152976A . '497, in a tube used for suction and discharge of ore slurry or any other abrasive material, provides for reinforcement of the tube that substantially does not contain fine particles, but does not disclose that the tube can be used to supply slurry in a chemical mechanical polishing method or apparatus. '265, figure 3, **314**'614, figure 2, **33**, or '499, figure 1, **30**, teach that it is old and well known in chemical mechanical processing of substrates to supply a slurry to a processing tool via a tube. It would have been obvious to one of ordinary skill in the art to have used the tube disclosed by '497 in a chemical mechanical polishing apparatus or method as taught '265, '614 or '499, to allow abrasive slurry to be supplied to the processing tool, with a longer life for the tube.

Further, the previously combined references teach that it is old and well known to make the inner surface a slurry supply hose from abrasion resistant material, but do not teach that the material is vinyl chloride. '976 (see enclosed English abstract) teaches that vinyl chloride is an old and well known abrasion resistant material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided '497 with the tube made of vinyl chloride, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. '976, teaches that a layer of vinyl chloride is abrasion resistant. Therefore one of ordinary skill would have found it obvious to make the abrasion resistant tube taught by '497 of vinyl chloride, taught as abrasion resistant by '096.

### ***Response to Arguments***

Applicant's amendment to claims 7, 10, 17 and 19 have overcome the previous rejections. Applicant's arguments with respect to claims 7, 9, 10, 17, 18, 19 and 21 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant argues that '096 is directed to a floor covering, and not a slurry supply tube and therefore the cited reference belongs to a different technical field from the present invention. In response to applicant's argument that '096 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir.

1992). In this case, the examiner agrees that '096 is not in the field of applicant's endeavor. However, it is the examiner's position that one of ordinary skill would consider the teachings of '096, that vinyl chloride is an abrasion resistant material, used to prevent damage to a surface by abrasive particles, reasonably pertinent to the particular problem with which applicant was concerned, extending the life of the tube (see applicant's specification, page 12). This is the purpose of the use of the vinyl chloride taught by '096, to extend the life of the surface coated with the vinyl chloride.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M Rachuba whose telephone number is 571-272-4493. The examiner can normally be reached on Monday-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M Rachuba  
Primary Examiner  
Art Unit 3723

A handwritten signature in black ink, appearing to be 'M. Rachuba', is written over the printed name and title.